IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 748 of 1998

For Approval and Signature:

HON'BLE MR.JUSTICE D.H.WAGHELA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

NANJIBHAI RABHAIBHAI RAJPUT

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Appeal No. 748 of 1998

MS BANNA S DUTTA for Petitioner No. 1

THROUGH JAIL for Petitioner No. 1

Ms.Paurami B. Sheth, A.P.P. for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE D.H.WAGHELA

Date of decision: 15/11/2003

ORAL JUDGEMENT

1. This appeal preferred by the original accused

person from jail from the judgment and order dated 22nd May, 1998 in Sessions Case no.3/1994 was pressed for disposal by the learned Counsel Ms. Banna Dutta appointed by way of legal aid and the learned A.P.P. It was stated at the Bar that upon payment of fine of Rs.15,000/- and undergoing by the appellant full term of sentence imposed under the impugned judgment and order, the appeal had become infructuous since the appellant was already released on 6-6-2003 upon completion of the term of sentence. It was further submitted by Ms. Dutta that after considering the grounds of appeal and the impugned judgment, she was satisfied that the impugned judgment and order were just and legal and require to be confirmed.

2. The learned Addl.Sessions Judge has in the impugned judgment carefully considered the oral and documentary evidence on record and relying upon, inter alia, the dying declaration (Exh.8), the postmortem report (Exh.11), the compromise deed (Exh.16), as also the deposition of independent witnesses at Exhs. (6) and (9) arrived at the findings of fact to the effect that victim of the alleged offences was legally married wife of the appellant, that she was subjected to physical and mental cruelty at the hands of the appellant, that she died an unnatural death due to severe burn injuries and that she was in a fit mental state when her dying declaration was recorded. On that basis, the appellant was held to be guilty of offences punishable under Sections 498A and 306 of the Indian Penal Code since the ingredients of the offences were proved beyond reasonable doubt by the prosecution. After conviction the appellant was heard on the point of sentence and after considering his submission of remarriage within one year and the gravity of the offences and other relevant considerations, the punishment, as aforesaid, appears to have been imposed in the impugned order.

3. In the above facts and circumstances, the plea of the learned Counsel requesting to reject and dispose of this appeal deserves acceptance, and accordingly, the appeal is dismissed with no order as to costs.

(D.H.Waghela,J.)

stanley-dhw.